

HOUSE BILL No. 1731

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-6-1.1.

Synopsis: Gasoline tax. Changes the \$0.18 per gallon gasoline tax into a cents per mile tax of \$0.0123 using a formula indexed for fuel efficiency and inflation. Provides for the conversion of the cents per mile tax to a per gallon rate. Caps the initial gasoline tax increase at \$0.03 per gallon. Provides that the amount of the gasoline tax may not be reduced from the amount computed in the previous year. Dedicates the increased gasoline tax collections in equal amounts to the state highway road construction and improvement fund, state highway fund, and the auditor of state for distribution to counties, cities, and towns.

Effective: July 1, 2005; January 1, 2006.

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January 19, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1731

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-6-1.1-201 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 201. **(a) Before**
3 **January 1, 2006**, a license tax of eighteen cents (\$0.18) per gallon is
4 imposed on the use of all gasoline used in Indiana, except as otherwise
5 provided by this chapter.

6 **(b) After December 31, 2005, a cents per mile license tax of one**
7 **and twenty-three hundredths cents (\$0.0123) is imposed on the use**
8 **of all gasoline used in Indiana, except as otherwise provided by this**
9 **chapter. The cents per mile license tax is converted annually to a**
10 **per gallon rate as provided in section 201.2 of this chapter.**

11 **(c) The distributor shall initially pay the tax on the billed gallonage**
12 **of all gasoline the distributor receives in this state, less any deductions**
13 **authorized by this chapter. The distributor shall then add the per gallon**
14 **amount of tax to the selling price of each gallon of gasoline sold in this**
15 **state and collected from the purchaser so that the ultimate consumer**
16 **bears the burden of the tax.**

17 SECTION 2. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2005]: Sec. 201.2. (a) As used in this section,
 "CPI" refers to the United States Bureau of Labor Statistics
 Consumer Price Index, all items, all urban consumers, or its
 successor index.

(b) As used in this section, "motor fuel" has the meaning set
 forth in IC 6-6-4.1-1(g).

(c) For calendar year 2006, the per gallon conversion of the
 cents per mile license tax imposed by section 201 of this chapter is
 the lesser of:

(1) the amount determined in STEP SIX of the formula set
 forth in subsection (d), rounded to the nearest one-tenth cent
 (\$0.001); or

(2) twenty-one cents (\$0.21).

(d) For calendar years beginning after December 31, 2006, the
 per gallon conversion of the cents per mile license tax imposed by
 section 201 of this chapter is the amount determined in STEP
 SEVEN of the following formula, rounded to the nearest one-tenth
 cent (\$0.001):

STEP ONE: Divide:

(A) the Indiana motor vehicle miles of travel (VMT) for
 the calendar year immediately preceding the calendar year
 in which the new per gallon conversion rate must be
 published under subsection (e), as reported by the United
 States Federal Highway Administration; by

(B) the certified taxable gallons of motor fuel for the
 calendar year immediately preceding the calendar year in
 which the new per gallon conversion rate must be
 published under subsection (e), as reported by the
 department;

to determine the current average miles per gallon (AMPG).

STEP TWO: Multiply the AMPG calculated under STEP
 ONE by the cents per mile license tax imposed by section 201
 of this chapter.

STEP THREE: Determine the percentage change between the
 CPI as last reported for the calendar year immediately
 preceding the previous calendar year and the CPI as last
 reported for the previous calendar year.

STEP FOUR: Express the percentage change determined in
 STEP THREE as a three (3) digit decimal rounded to the
 nearest thousandth.

STEP FIVE: Add one (1) to the decimal determined in STEP

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STEP SIX: Multiply the STEP TWO amount by the sum determined in STEP FIVE.

STEP SEVEN: For calendar years beginning after December 31, 2006, determine the greater of:

(A) the STEP SIX result; or

(B) the amount determined under this subsection for the previous calendar year.

(e) Not later than November 1 of each year, the department shall:

(1) publish the annual tax rate in effect for the following calendar year in the Indiana Register; and

(2) widely disseminate information concerning the applicability of the per gallon conversion rate.

(f) Not later than November 1 of each year, the department shall publish in the Indiana Register and widely disseminate information concerning:

(1) the certified taxable gallons of fuel; and

(2) the Indiana motor vehicle miles of travel;

used in the calculation of the per gallon conversion rate under subsection (c).

SECTION 3. IC 6-6-1.1-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

(1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.

(2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).

(3) Subtract the number of gallons reported under section 501(3) of this chapter.

(4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2006) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2005)** to compute that part of the gasoline tax to be deposited in the highway, road and street fund under section 802(2) of this chapter or in the motor

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fuel tax fund under section 802(3) of this chapter.

(5) Multiply the number of gallons subtracted under subdivision (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2006) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2005)** to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

(1) estimated monthly gasoline tax liability for the current year; or

(2) average monthly gasoline tax liability for the preceding year; exceeds ten thousand dollars (\$10,000), the distributor shall pay the monthly gasoline taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

SECTION 4. IC 6-6-1.1-606.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 606.6. (a) Except as provided in subsection (c), every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways of Indiana in a vehicle having a total tank capacity of less than eight hundred fifty (850) gallons is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline transported into Indiana and delivered to any person other than a licensed distributor.

(b) Except as provided in subsection (c), every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle on the highways of Indiana is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline:

(1) received by the person for transportation to a point outside Indiana;

(2) not ~~in fact~~ transported to a point outside Indiana; and

(3) ~~in fact~~ delivered to a person other than a licensed distributor inside Indiana.

(c) The following are excluded when computing any liability under this section:

(1) All deliveries of gasoline when the tax imposed by law was charged or collected by the parties under the circumstances described in this section.

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(2) Deliveries of gasoline used in computing the tax under section 301 of this chapter.

SECTION 5. IC 6-6-1.1-801.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 801.5. (a) The administrator shall transfer ~~one-ninth (1/9)~~ **three twenty-firsts (3/21)** of the taxes that are collected under this chapter to the state highway road construction and improvement fund.

(b) The administrator shall transfer ~~one-eighteenth (1/18)~~ **two twenty-firsts (2/21)** of the taxes that are collected under this chapter to the state highway fund.

(c) The administrator shall transfer ~~one-eighteenth (1/18)~~ **two twenty-firsts (2/21)** of the taxes that are collected under this chapter to the auditor of state for distribution to counties, cities, and towns. The auditor of state shall distribute the amounts transferred under this subsection to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(d) After the transfers required by subsections (a) through (c), the administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

(2) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1; and

(3) forty percent (40%) to the Indiana department of transportation.

(e) The auditor of state shall hold all amounts of collections received under subsection (d) from the administrator that are made during a particular month and shall distribute all of those amounts

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1 pursuant to subsection (d) on the fifth day of the immediately
2 succeeding month.

3 (f) All amounts distributed under subsection (d) may only be used
4 for purposes that money distributed from the motor vehicle highway
5 account may be expended under IC 8-14-1.

6 SECTION 6. [EFFECTIVE JULY 1, 2005] (a) **The department of**
7 **state revenue, before November 1, 2005, shall publish in the**
8 **Indiana Register the per gallon conversion rate determined under**
9 **IC 6-6-1.1-201.2, as added by this act, that is applicable for the**
10 **calendar year beginning January 1, 2006.**

11 (b) **IC 6-6-1.1-606.6, as amended by this act, applies to gasoline**
12 **used after December 31, 2005.**

13 (c) **IC 6-6-1.1-801.5, as amended by this act, applies to gasoline**
14 **taxes collected after December 31, 2005.**

15 (d) **This SECTION expires January 1, 2007.**

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